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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/847,806      | 05/02/2001  | Ferdinand Kristen    | DT-3897             | 4906             |

30377 7590 11/03/2003

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| EXAMINER |
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TRAN, LOUIS B

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3721

DATE MAILED: 11/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/847,806

Applicant(s)

KRISTEN ET AL.

Examiner

Louis B Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 4, received on 09/08/2003.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzzella (5,584,619) in view of Steffen (6,123,158).

Guzzella discloses the invention substantially as claimed including an electric hand tool apparatus M for driving a drilling tool effecting at least partially a rotational movement and comprising a housing, an electric motor 7 within said housing, motor control electronics 3 within said housing in operational engagement with said electric motor 7 and arranged to control the rpm of said electric motor, a force transfer path, seen in Figure 2, from said motor to a transmission and rpm-dependent clutch 5 in the force transfer path for transmitting torque from said electric motor to said transmission (as in claim 1), wherein a sensor 1 is connecting with and to said housing for detecting a future excessively high twisting of said housing (as in claim 2), but does not show a specific magnetic reluctance motor (as in claim 3), free of a collector and slip ring for producing a torque.

However, Steffen teaches the use of a magnetic reluctance motor and a motor free of a collector and slip ring for producing torque. Moreover, Steffen specifically states that these types of motors are well known in the art for their low wear characteristics as described in column 1, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Guzzella with a specific type of motor taught in Steffen, and well known in the art, in order to decrease wear.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzzella (5,584,619) in view of Steffen (6,123,158).

Guzzella discloses the invention substantially as claimed including a method of operating an electric hand tool for limiting an excessively high twisting of a housing of the electric and tool in the event of an obstruction during operation, the electric hand tool M comprising a housing, an electric motor 7 for producing a torque, motor control electronics 3 within the housing in operational engagement with the electric motor for controlling rpm of the torque thereof, a transmission, seen in Figure 2, within the housing for transmitting rotational movement along a force transfer path from the motor to the transmission, and a rpm-dependent clutch 5 in the force transfer path from transmitting torque from the electric motor to the transmission, a sensor 1 connected with the housing for detecting future excessively high twisting of the housing, comprising the steps of triggering a safety signal when an excessively high twisting of the housing is recorded by the sensor, actively reducing the rpm of the electric motor via the motor control electronics (which occurs inherently as in column 4, lines 50-66), and with the

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reduction, of the rpm interrupting the transfer torque over the force transfer path (as in claim 4), the steps of polling and evaluating the safety signal before accelerating the electric motor via the electronic control electronics described in column 6, lines 15-45 (as in claim 5), but does not explicitly show an electric motor for producing a torque and being free of a collector and slip ring.

However, Steffen teaches the use of reducing the rpm of the electric motor via the motor control electronics and a motor free of a collector and slip ring for producing torque. Moreover, Steffen specifically states that these types of motors are well known in the art for their low wear characteristics as described in column 1, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Guzzella with a specific type of motor taught in Steffen, and well known in the art, in order to decrease wear.

### ***Conclusion***

5. Applicant's remarks have been fully considered but are deemed non-persuasive.

Applicant contends that although Guzzella discloses angular speed sensors but does not measure the rpm of the rotor or of the clutch. Examiner contends that Guzzella does inherently show measuring rpm as in column 3, lines 52-60 where it is stated, "one sensor, such as an angular acceleration sensor, which can be formed by an accelerator meter, angular speed sensor, a path meter, etc., or a torque sensor". Moreover, it is well known in the art that if acceleration is discovered, simple integration will result in the velocity or speed component.

Applicant contends there is no active reduction or braking of the rpm of the motor, rather only an interruption of the current flow. Examiner draws applicant's attention to column 4, lines 59-65 where it is described, "interrupts the flow of current to the drive motor of the machine and on the other hand, turns off the coupling, which breaks the drive path between the rotor of the drive motor and the remaining elements of the drive path from the drive motor rotor to the toolbit." Clearly, there is active reduction or braking of rpm occurring as described.

In response to Applicant's argument that Steffen includes additional structure not required by Applicant's invention, it must be noted that Steffen discloses the common use of motors free of a collector and slip ring as applicant's invention has claimed. The fact that it discloses additional structure not claimed is irrelevant.

For the reason's above, the grounds of rejection are deemed proper.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal line extending to the right.

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700